

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

NOVEMBER 18, 1999

IN RE:

**APPLICATION OF FRONTIER LOCAL
SERVICES INC. FOR A CERTIFICATE
TO PROVIDE COMPETING
TELECOMMUNICATIONS SERVICES**

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Docket No. 99-00120

**ORDER GRANTING CERTIFICATE OF
CONVENIENCE AND NECESSITY**

On May 18, 1999, this matter came before the Tennessee Regulatory Authority ("Authority") upon the Application of Frontier Local Services Inc. ("FLSI") for a Certificate to Provide Competing Local Telecommunications Services, with which it intends to offer a broad variety of telecommunications services within the State of Tennessee (the "Application"). The Application was made pursuant to Tenn. Code Ann. § 65-4-201 *et seq.*

LEGAL STANDARD FOR GRANTING CCN

FLSI's Application was considered in light of the criteria for granting a certificate of public convenience and necessity ("CCN") as set forth in applicable statutes. Tenn. Code Ann. § 65-4-201 provides, in part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility,

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or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

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(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

An authority order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a competing telecommunications service provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.

In addition, pursuant to Tenn. Code Ann. § 65-5-212, competing telecommunications providers are required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

INTERVENORS

Public notice of the hearing in this matter was made by the Authority's Executive Secretary, pursuant to Tenn. Code Ann. § 65-4-204. No interested persons sought intervention prior to hearing.

FLSI'S HEARING

FLSI's Application was uncontested. At the hearing held on May 18, 1999, Mr. Michael J. Nighan, FLSI's Director - Regulatory Affairs, presented testimony and was subject to examination by the Authority's Directors. At the conclusion of the hearing, the Authority took the matter under advisement and directed FLSI to refile its small and minority-owned telecommunications business participation plan and to provide additional information to clarify and correct certain information provided to the Authority by Global Crossing Ltd., which was in the process of acquiring FLSI's parent company. Subsequent to the hearing, Global Crossing Ltd. provided the requested information and FLSI refiled its small and minority-owned telecommunications business participation plan. At the Authority's hearing held on September 14, 1999, the Authority reconsidered FLSI's Application and granted the Application based upon the following findings of fact and conclusions of law:

I. APPLICANT'S QUALIFICATIONS

1. As a corporation organized under the laws of the State of Michigan on January 4, 1995, FLSI was qualified to transact business in Tennessee on February 16, 1999.
2. The complete street address of FLSI's principal place of business is 180 South Clinton Avenue, Rochester, New York 14646. The phone number is (716) 777-8456 and fax number is (716) 232-3646.
3. The Application and supporting documentary information existing in the record indicate that FLSI has the requisite technical and managerial qualifications necessary to provide telecommunications services within the State of Tennessee on a facilities-based and resale basis. FLSI's management and technical teams have extensive expertise in the telecommunications industry. FLSI's affiliate, Frontier Communications Services, Inc., is currently authorized to resell services in Tennessee. Furthermore, FLSI is currently authorized to provide telecommunications services on a facilities-based and/or resale basis in at least fifteen states.

4. FLSI has the necessary capital and financial capability to provide the services it proposes to offer.

5. FLSI has represented that it will adhere to all applicable policies, rules and orders of the Authority.

II. PROPOSED SERVICES

1. FLSI intends to offer a full array of telecommunications services throughout the State of Tennessee on a facilities-based and resale basis. Specifically, FLSI intends to offer a broad range of local exchange services, interexchange services, exchange access, and switched and special access services. FLSI's target market for its facilities-based services will be primarily business users.

2. Except as may be authorized by law, FLSI does not intend to provide local exchange service in any areas currently being served by an incumbent local telephone company with fewer than 100,000 total access lines where local exchange competition is prohibited pursuant to Tenn. Code Ann. § 65-4-201(d).

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

1. Upon a review of the Application and the record in this matter, the Authority finds that approval of FLSI's application would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and by fostering the development of an efficient technologically advanced statewide system of telecommunications services.

IV. SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN & BUSINESS ASSISTANCE PROGRAM

1. FLSI has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-212 and the Authority's Rules.

2. FLSI has acknowledged its obligation to contribute to the funding of the small and minority-owned telecommunications business assistance program, as set forth in Tenn. Code Ann. § 65-5-213.

IT IS THEREFORE ORDERED THAT:

1. FLSI's Application is approved as applied for;
2. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order; and
3. Any party aggrieved by the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.



Melvin J. Malone, Chairman



H. Lynn Greer, Jr., Director



Sara Kyle, Director

ATTEST:



K. David Waddell, Executive Secretary

K. David Waddell, Executive Secretary